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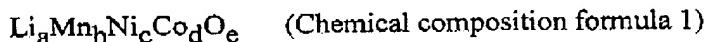
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AMENDMENTS TO THE CLAIMS:

Claims 1-6 (Canceled)

7. (Previously presented) A positive active material comprising:
a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:



wherein $0 < a \leq 1.3$

$|b-c| \leq 0.05$

$0.6 \leq d \leq 1$

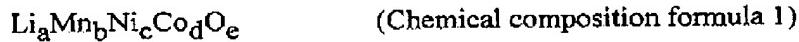
$1.7 \leq e \leq 2.3$

$b+c+d=1$, and

wherein said composite oxide shows comprises a single-phase structure belonging to space group R3-m as a result of examination by X-ray diffractometry.

8. (Currently amended) A positive active material comprising:

a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:



wherein $0 < a \leq 1.3$

$|b-c| < 0.03$

$0.8 \leq d \leq 1$

$1.7 \leq e \leq 2.3$

$b+c+d=1$, and

wherein said composite oxide shows comprises a single-phase structure belonging to space group R3-m as a result of examination by X-ray diffractometry.

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9. (Previously presented) A non-aqueous electrolyte battery, comprising:

- a positive electrode including the positive active material of claim 7;
- a negative electrode; and
- a non-aqueous electrolyte.

10. (Previously presented) A non-aqueous electrolyte battery, comprising:

- a positive electrode including the positive active material of claim 8;
- a negative electrode; and
- a non-aqueous electrolyte.

11. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode, a negative electrode, and a non-aqueous electrolyte,
wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel
structure and represented by the general formula LiMn_2O_4 and a lithium-nickel-manganese-
cobalt composite oxide (B) having an $\alpha\text{-NaFeO}_2$ layer structure and represented by the general
formula $\text{Li}_a\text{Mn}_b\text{Ni}_c\text{Co}_d\text{O}_e$,

wherein a weight ratio of (A) to (B) is in a range from 5:95 to 10:90, and

wherein

$$0 < a \leq 1.3$$

$$|b-c| \leq 0.05$$

$$0.6 \leq d < 1$$

$$1.7 \leq e \leq 2.3$$

$$b+c+d=1.$$

12. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode, a negative electrode, and a non-aqueous electrolyte,

wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel
structure and represented by the general formula LiMn_2O_4 and a lithium-nickel-manganese-

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cobalt composite oxide (B) having an α -NaFeO₂ layer structure and represented by the general formula Li_aMn_bNi_cCo_dO_e,

wherein a weight ratio of (A) to (B) is in a range from 5:95 to 10:90, and
wherein

$$0 < a \leq 1.3$$

$$|b-c| < 0.03$$

$$0.8 \leq d \leq 1$$

$$1.7 \leq e \leq 2.3$$

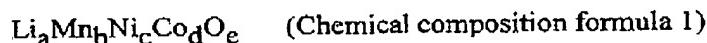
$$b+c+d=1.$$

13. (Previously presented) The non-aqueous electrolyte battery of claim 19, wherein the positive electrode includes (A) and the (B) in a proportion (weight ratio) of from 5:95 to 90:10.

14. (Previously presented) The non-aqueous electrolyte battery of claim 20, wherein the positive electrode includes (A) and the (B) in a proportion (weight ratio) of from 5:95 to 90:10.

15. (Currently amended) A positive active material comprising:

a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:



wherein $0 < a \leq 1.3$

$$|b-c| \leq 0.05$$

$$0.6 \leq d \leq 0.833$$

$$1.7 \leq e \leq 2.3$$

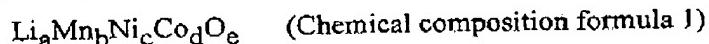
$$b+c+d=1, \text{ and}$$

wherein said composite oxide shows comprises a single-phase structure belonging to space group R3-m as a result of examination by X-ray diffractometry.

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16. (Currently amended) A positive active material comprising:
a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:



wherein $0 < a \leq 1.3$

$|b-c| < 0.03$

$0.8 \leq d \leq 0.833$

$1.7 \leq e \leq 2.3$

$b+c+d=1$, and

wherein said composite oxide shows comprises a single-phase structure belonging to space group R3-m as a result of examination by X-ray diffractometry.

17. (Previously presented) A non-aqueous electrolyte battery, comprising:
a positive electrode including the positive active material of claim 15;
a negative electrode; and
a non-aqueous electrolyte.

18. (Previously presented) A non-aqueous electrolyte battery, comprising:
a positive electrode including the positive active material of claim 16;
a negative electrode; and
a non-aqueous electrolyte.

19. (Previously presented) A non-aqueous electrolyte battery, comprising:
a positive electrode, a negative electrode, and a non-aqueous electrolyte,
wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel structure and represented by the general formula LiMn_2O_4 and a lithium-nickel-manganese-cobalt composite oxide (B) having an $\alpha\text{-NaFeO}_2$ layer structure and represented by the general formula $\text{Li}_a\text{Mn}_b\text{Ni}_c\text{Co}_d\text{O}_e$,

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wherein

$$0 < a \leq 1.3$$

$$|b-c| \leq 0.05$$

$$0.9 \leq d \leq 1$$

$$1.7 \leq e \leq 2.3$$

$$b+c+d=1$$

$$b < 0.05.$$

20. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode, a negative electrode, and a non-aqueous electrolyte,

wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel structure and represented by the general formula LiMn_2O_4 and a lithium-nickel-manganese-cobalt composite oxide (B) having an $\alpha\text{-NaFeO}_2$ layer structure and represented by the general formula $\text{Li}_a\text{Mn}_b\text{Ni}_c\text{Co}_d\text{O}_e$,

wherein

$$0 < a \leq 1.3$$

$$|b-c| < 0.03$$

$$0.9 \leq d \leq 1$$

$$1.7 \leq e \leq 2.3$$

$$b+c+d=1$$

$$b < 0.05.$$

21. (Previously presented) The non-aqueous electrolyte battery of claim 11, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.

22. (Previously presented) The non-aqueous electrolyte battery of claim 12, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.

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23. (Previously presented) The non-aqueous electrolyte battery of claim 19, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.

24. (Previously presented) The non-aqueous electrolyte battery of claim 20, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.

25. (New) The positive active material of claim 7, wherein $b+c \leq 0.4$.

26. (New) The positive active material of claim 7, wherein $0 < c-b \leq 0.05$.

27. (New) The positive active material of claim 7, wherein said composite oxide consists essentially of a single-phase structure belonging to space group R3-m.

28. (New) The positive active material of claim 7, wherein diffraction lines observed by X-ray diffractometry for said composite oxide are limited to lines attributable to a single-phase structure belonging to space group R3-m.